

**Proposed Substitute  
Bill No. 5295**

LCO No. 3205

**AN ACT CONCERNING DEBIT CARD FRAUD AND PENALTIES FOR  
COLLECTION OF RENTAL PAYMENTS ON FORECLOSED  
PROPERTY.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-128a of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective from passage*):

3 As used in this section and sections 53a-128b to 53a-128i, inclusive,  
4 as amended by this act:

5 (a) "Cardholder" or "holder of a card" means the person named on  
6 the face of a [credit] payment card to whom or for whose benefit the  
7 [credit] payment card is issued by an issuer or, in the case of a  
8 payment card that does not bear the name of a person on its face, the  
9 person who lawfully acquired the payment card;

10 (b) "Credit card" means any instrument or device, whether known  
11 as a credit card, as a credit plate, or by any other name, issued with or  
12 without a fee by an issuer for the use of the cardholder in obtaining  
13 money, goods, services or anything else of value on credit;

14 (c) "Debit card" means any card, code, device or other means of  
15 access, or any combination thereof, that is issued or authorized for use  
16 to debit an asset account held directly or indirectly by a financial

17 institution and that may be used by the cardholder to obtain money,  
18 goods, services or anything of value, regardless of whether the card,  
19 code, device or other means of access, or any combination thereof, is  
20 known as a debit card. "Debit card" includes, but is not limited to,  
21 cards, codes, devices or other means of access, or some combination  
22 thereof, commonly known as payroll cards and automated teller  
23 machine cards. "Debit card" does not include a check, draft or similar  
24 paper instrument, or an electronic representation thereof;

25 (d) "Digital wallet" means a software application that is used on a  
26 computer or other device, including, but not limited to, a mobile  
27 device, to store digital forms of one or more payment cards that may  
28 be used to obtain money, goods or services or anything of value;

29 [(c) "Expired credit card"] (e) "Expired payment card" means a  
30 [credit] payment card which is no longer valid because the term shown  
31 on it has elapsed;

32 [(d)] (f) "Issuer" means the person which issues a [credit] payment  
33 card, or its agent duly authorized for that purpose;

34 [(e)] (g) "Participating party" means any person or any duly  
35 authorized agent of such person, which is obligated by contract to  
36 acquire from another person providing money, goods, services or  
37 anything else of value, a sales slip, sales draft or instrument for the  
38 payment of money, evidencing a [credit] payment card transaction,  
39 and from whom, directly or indirectly, the issuer is obligated by  
40 contract to acquire such sales slip, sales draft, instrument for the  
41 payment of money and the like;

42 (h) "Payment card" means either a credit card or a debit card;

43 [(f)] (i) "Receives" or "receiving" means acquiring possession,  
44 custody or control;

45 [(g) "Revoked credit card"] (j) "Revoked payment card" means a  
46 [credit] payment card which is no longer valid because permission to  
47 use it has been suspended or terminated by the issuer.

48       Sec. 2. Section 53a-128b of the general statutes is repealed and the  
49       following is substituted in lieu thereof (*Effective from passage*):

50       Any person who makes or causes to be made, either directly or  
51       indirectly, any false statement in writing, knowing it to be false and  
52       with intent that it be relied on, respecting [his] such person's identity  
53       or [that] the identity of any other person or [his] such person's financial  
54       condition or that of any other person, for the purpose of procuring the  
55       issuance of a [credit card] payment card or loading the payment card  
56       into a digital wallet, violates this section and is subject to the penalties  
57       set forth in subsection (a) of section 53a-128i.

58       Sec. 3. Section 53a-128c of the general statutes is repealed and the  
59       following is substituted in lieu thereof (*Effective from passage*):

60       (a) Any person who takes a [credit] payment card from the person,  
61       possession, custody or control of another without the consent of the  
62       cardholder or of the issuer or who, with knowledge that it has been so  
63       taken, receives the [credit] payment card with intent to use it or to sell  
64       it, or to transfer it to any person other than the issuer or the cardholder  
65       is guilty of [credit] payment card theft and is subject to the penalties  
66       set forth in subsection (a) of section 53a-128i. Taking a [credit] payment  
67       card without consent includes obtaining it by conduct defined or  
68       known as statutory larceny, common law larceny by trespassory  
69       taking, common law larceny by trick, embezzlement, or obtaining  
70       property by false pretense, false promise or extortion.

71       (b) Any person who receives a [credit] payment card that [he] such  
72       person knows to have been lost, mislaid, or delivered under a mistake  
73       as to the identity or address of the cardholder, and who retains  
74       possession, custody or control thereof with intent to use it or to sell it  
75       or to transfer it to any person other than the issuer or the cardholder, is  
76       guilty of [credit] payment card theft and is subject to the penalties set  
77       forth in subsection (a) of section 53a-128i.

78       (c) Any person other than the issuer who sells a [credit] payment  
79       card or any person who buys a [credit] payment card from a person

80 other than the issuer violates this subsection and is subject to the  
81 penalties set forth in subsection (a) of section 53a-128i.

82 (d) Any person who, with intent to defraud the issuer, a  
83 participating party, or a person providing money, goods, services or  
84 anything else of value, or any other person, obtains control over a  
85 [credit] payment card as security for debt violates this subsection and  
86 is subject to the penalties set forth in subsection (a) of section 53a-128i.

87 (e) Any person, other than the issuer, who, during any twelve-  
88 month period, receives [credit] payment cards issued in the names of  
89 two or more persons which [he] such person has reason to know were  
90 taken or retained under circumstances which constitute [credit]  
91 payment card theft or a violation of section 53a-128b, as amended by  
92 this act, or subsection (c) or (d) of this section violates this subsection  
93 and is subject to the penalties set forth in subsection (b) of section 53a-  
94 128i.

95 (f) Any person who, with intent to defraud a purported issuer, a  
96 participating party, or a person providing money, goods, services or  
97 anything else of value, or any other person, falsely makes or falsely  
98 embosses a purported [credit card] payment card or falsely loads or  
99 causes to be falsely loaded a payment card into a digital wallet or  
100 utters such a [credit] payment card is guilty of [credit] payment card  
101 forgery and is subject to the penalties set forth in subsection (b) of  
102 section 53a-128i. A person "falsely makes" a [credit] payment card  
103 when [he] such person makes or draws, in whole or in part, a device or  
104 instrument which purports to be the [credit] payment card of a named  
105 issuer but which is not such a [credit] payment card because the issuer  
106 did not authorize the making or drawing, or when such person so  
107 alters a [credit] payment card which was validly issued. A person  
108 "falsely embosses" a [credit] payment card when, without the  
109 authorization of the named issuer, [he] such person completes a  
110 [credit] payment card by adding any of the matter, other than the  
111 signature of the cardholder, which an issuer requires to appear on the  
112 [credit] payment card before it can be used by a cardholder.

113 (g) Any person other than the cardholder or any person authorized  
114 by him who, with intent to defraud the issuer, a participating party, or  
115 a person providing money, goods, services or anything else of value,  
116 or any other person, signs a [credit] payment card, violates this  
117 subsection and is subject to the penalties set forth in subsection (a) of  
118 section 53a-128i.

119 Sec. 4. Section 53a-128d of the general statutes is repealed and the  
120 following is substituted in lieu thereof (*Effective from passage*):

121 Any person who, with intent to defraud the issuer, a participating  
122 party, or a person providing money, goods, services or anything else of  
123 value, or any other person, (1) uses for the purpose of obtaining  
124 money, goods, services or anything else of value a [credit] payment  
125 card obtained or retained in violation of section 53a-128b, as amended  
126 by this act, or a [credit] payment card which [he] such person knows is  
127 forged, expired or revoked, or (2) obtains money, goods, services or  
128 anything else of value by representing without the consent of the  
129 cardholder that [he] such person is the holder of a specified card or by  
130 representing that [he] such person is the holder of a card and such card  
131 has not in fact been issued, or (3) uses a [credit] payment card obtained  
132 or retained in violation of section 53a-128c, as amended by this act, or a  
133 [credit] payment card which [he] such person knows is forged, expired  
134 or revoked, as authority or identification to cash or to attempt to cash  
135 or otherwise to negotiate or transfer or to attempt to negotiate or  
136 transfer any check or other order for the payment of money, whether  
137 or not negotiable, if such negotiation or transfer or attempt to negotiate  
138 or transfer would constitute a violation of section 53a-128 violates this  
139 subsection and is subject to the penalties set forth in subsection (a) of  
140 section 53a-128i, if the value of all money, goods, services and other  
141 things of value obtained in violation of this subsection does not exceed  
142 five hundred dollars in any six-month period; and is subject to the  
143 penalties set forth in subsection (b) of section 53a-128i, if such value  
144 does exceed five hundred dollars in any such six-month period.  
145 Knowledge of revocation shall be presumed to have been received by a  
146 cardholder four days after it has been mailed to [him] such cardholder,

147 at the address set forth on the [credit] payment card or at [his] such  
148 cardholder's last-known address. [, by registered or certified mail,  
149 return receipt requested, and, if, the address is more than five hundred  
150 miles from the place of mailing, by air mail.] If the address is located  
151 outside the United States, Puerto Rico, the Virgin Islands, the Canal  
152 Zone or Canada, notice shall be presumed to have been received ten  
153 days after mailing by registered or certified mail.

154 Sec. 5. Section 53a-128e of the general statutes is repealed and the  
155 following is substituted in lieu thereof (*Effective from passage*):

156 (a) Any person who is authorized by an issuer or a participating  
157 party to furnish money, goods, services or anything else of value upon  
158 presentation of a [credit] payment card by the cardholder, or any agent  
159 or employee of such person, who, with intent to defraud the issuer, or  
160 participating party, the cardholder, or any other person furnishes  
161 money, goods, services or anything else of value upon presentation of  
162 a [credit] payment card obtained or retained in violation of section 53a-  
163 128c, as amended by this act, or a [credit] payment card which [he]  
164 such person knows is forged, expired or revoked, violates this  
165 subsection and is subject to the penalties set forth in subsection (a) of  
166 section 53a-128i, if the value of all money, goods, services and other  
167 things of value furnished in violation of this subsection does not  
168 exceed five hundred dollars in any six-month period; and is subject to  
169 the penalties set forth in subsection (b) of section 53a-128i if such value  
170 does exceed five hundred dollars in any such six-month period.

171 (b) Any person who is authorized by an issuer or a participating  
172 party to furnish money, goods, services or anything else of value upon  
173 presentation of a [credit] payment card by the cardholder, or any agent  
174 or employee of such person, who, with intent to defraud the issuer, a  
175 participating party, the cardholder, or any other person fails to furnish  
176 money, goods, services or anything else of value which [he] such  
177 person represents in writing to the issuer or participating party that  
178 [he] such person has furnished violates this subsection and is subject to  
179 the penalties set forth in subsection (a) of section 53a-128i, if the

180 difference between the value of all money, goods, services and  
181 anything else of value actually furnished and the value represented to  
182 the issuer or participating party to have been furnished does not  
183 exceed five hundred dollars in any six-month period; and is subject to  
184 the penalties set forth in subsection (b) of section 53a-128i if such  
185 difference does exceed five hundred dollars in any such six-month  
186 period.

187       Sec. 6. Section 53a-128f of the general statutes is repealed and the  
188 following is substituted in lieu thereof (*Effective from passage*):

189       Any person, other than the cardholder, having under [his] such  
190 person's possession, custody or control two or more incomplete  
191 [credit] payment cards, or possessing a purported distinctive element  
192 of a [credit] payment card, with intent to complete such incomplete  
193 [credit] payment cards or to utilize such purported distinctive element  
194 in the production or reproduction of any [credit] payment card,  
195 without the consent of the issuer, or a person having under [his] such  
196 person's possession, custody or control, with knowledge of its  
197 character, a distinctive element of any [credit] payment card or any  
198 machinery, plates or any contrivance designed to produce or  
199 reproduce instruments purporting to be the [credit] payment cards of  
200 an issuer, or of any issuer in a group of issuers utilizing a common  
201 distinctive element or elements in [credit] payment cards issued by all  
202 members of such group, who has not consented to the production or  
203 reproduction of such cards, violates this section and is subject to the  
204 penalties set forth in subsection (b) of section 53a-128i. A [credit]  
205 payment card is "incomplete" if part of the matter other than the  
206 signature of the cardholder, which an issuer, or any issuer in a group  
207 of issuers utilizing a common distinctive element or elements in  
208 [credit] payment cards issued by all members of such group, requires  
209 to appear on the [credit] payment card, before it can be used by a  
210 cardholder, has not yet been stamped, embossed, imprinted or written  
211 on it. A "distinctive element" of a [credit] payment card is any material  
212 or component used in the fabrication of [credit] payment cards, which,  
213 by virtue of such element's chemical or physical composition, color or

214 design, is unique to the [credit] payment cards issued by a particular  
215 issuer or group of issuers utilizing a common distinctive element or  
216 elements in [credit] payment cards issued by all members of such  
217 group.

218       Sec. 7. (NEW) (*Effective from passage*) Any person who formerly held  
219 a mortgage on property, on which a final judgment of foreclosure has  
220 been entered, that continues to collect rental payments on such  
221 property after the final judgment of foreclosure shall be subject to the  
222 penalties for larceny under sections 53a-122 to 53a-125b, inclusive, of  
223 the general statutes depending on the amount involved.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	53a-128a
Sec. 2	<i>from passage</i>	53a-128b
Sec. 3	<i>from passage</i>	53a-128c
Sec. 4	<i>from passage</i>	53a-128d
Sec. 5	<i>from passage</i>	53a-128e
Sec. 6	<i>from passage</i>	53a-128f
Sec. 7	<i>from passage</i>	New section